

Notice of Allowability

Application No.

10/045,089

Examiner

Jason M. Borlinghaus

Applicant(s)

GINSBURG ET AL.

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/07/07.
2. ☒ The allowed claim(s) is/are 1,2 and 4-7.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

Allowable Subject Matter

Claims 1 - 2 and 4 - 7 are allowed.

The following is a statement of reasons for indication of allowable subject matter.

The prior art fails to teach or suggest the limitations of:

“a performance measurement system for measuring performance of a medium in which units of inventory are used, wherein said units are advertisement opportunities in television, broadcast radio, internet radio, outdoor advertising and entertainment industry events.” (as in Claim 1)

Such limitation is present in all independent claims.

It is well known in the art of advertising for media outlets to sell advertising opportunities (e.g. ad space) to advertisers. These opportunities are traditionally tailored to satisfy said advertisers' criteria for the advertising exposure to be garnered. Sometimes the criteria are relatively simple and merely require that the advertisement reaches a particular demographic group or reaches a certain number of viewers. At other times the criteria is more complicated and a complex schedule consisting of multiple advertisement opportunities must be compiled in order to satisfy the criteria.

It is also well known in the art of advertising for media outlets to price their advertising opportunities (e.g. ad space) based upon certain pricing considerations such as the level of advertising exposure of the opportunity (e.g. Nielsen score) and inventory levels of available advertising opportunities.

However, the inventive or innovative step does not need to be derived from the individual components of the invention but can be derived from a unique or novel approach to combining or utilizing such prior existing elements, for the Federal Circuit has long established that "[c]ombination claims can consist of new combinations of old elements..., for it may be that the combination of the old elements is novel and patentable." *Clearstream Wastewater Sys. v. Hydro-Action, Inc.*, 206 F.3d 1440, 1444, 54 USPQ2d 1185, 1189 (Fed. Cir. 2000).

While numerous recited components and listed elements of the claimed system, as discussed above, are old and well known in the art, Examiner asserts that the instant application does claim a unique and novel approach through combination and expansion of such prior existing elements.

In particular, Examiner asserts that the instant application distinguishes from the old and well known practices by combining the crafting of an advertising opportunity to satisfy the advertisers' criteria with the pricing of said advertising opportunity to maximize the revenue for the media outlet. The instant application also expands upon this combination to encompass the arenas of television, broadcast radio, internet radio, outdoor advertising and entertainment industry events, allowing for the development of a schedule that spans multiple advertising avenues.

Furthermore, Examiner asserts that while the old and well known practices may disclose "*in general*" the concepts being combined, the instant application states with specificity the components comprising the advertisers' criteria and the component parameters considered during pricing of advertising opportunities.

Cannon (US Patent 6,286,005) discloses a method/system for tailoring an advertising opportunity to satisfy the advertisers' criteria. Neither this patent, alone nor in combination with others, discloses nor suggests the feature of pricing the advertising opportunities, expanding the advertising opportunities to encompass multiple advertising avenues nor the specific components of the advertisers' criteria as claimed by Applicant.

Hennessey (PG Pub 2003/0050050827) discloses a method/system for pricing an advertising opportunity. Neither this patent, alone nor in combination with others, discloses nor suggests the feature of tailoring an advertising opportunities to satisfy an advertisers' criteria, expanding the advertising opportunities to encompass multiple advertising avenues nor the specific components of pricing parameters as claimed by Applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Borlinghaus whose telephone number is (571) 272-6924. The examiner can normally be reached on 8:30am-5:00pm M-F.

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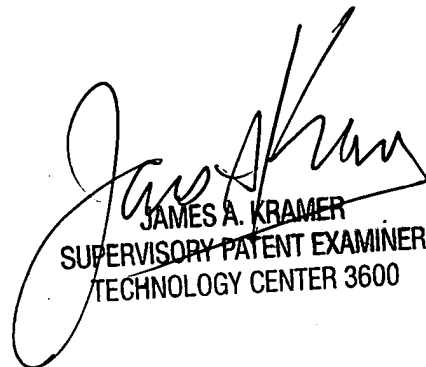
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason Borlinghaus (JMB)

December 28, 2007

 1/3/08
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600